

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MICHELLE Y. HARDY, as Plenary)
Guardian of TRESSA L. MICHAEL, a)
Disabled Person,)
)
Plaintiff,)
)
v.)
)
COMMUNITY ALTERNATIVES ILLINOIS,)
INC., a corporation d/ba/ COMMUNITY)
ALTERNATIVES ILLINOIS SOUTH,)
)
Defendant.)

Case No.20-cv-881-RJD

ORDER

DALY, Magistrate Judge:

This matter comes before the Court on Plaintiff’s Motion for Leave to Amend Complaint (Doc. 53). Defendant objects (Doc. 54). Federal Rule of Civil Procedure 15(a) provides that a party may amend a pleading and that leave to amend should be freely given "when justice so requires." However, Federal Rule of Civil Procedure 16 requires the Court to issue Scheduling Orders as “soon as practicable” and those Scheduling Orders must include a deadline for amended pleadings. *Alioto v. Town of Lisbon*, 651 F.3d 715, 719 (7th Cir. 2011). The deadline in the Scheduling Order for filing amended pleadings in this matter was December 29, 2020 (Doc. 22-1). Because the deadline has expired, Plaintiff may still be allowed to file an amended complaint if she can establish that good cause exists for the amendment. *Id.* at 719-20.

Plaintiff’s Complaint alleges that Tressa Michael sustained injuries at Defendant’s facility (a “community integrated living arrangement”) and that her injuries were caused by the alleged negligence of Defendant’s employees (Doc. 3-1). Plaintiff’s Complaint contains one count: a

vicarious liability claim against Defendant. In the proposed amended complaint, Plaintiff further alleges direct negligence against Defendant for failing to provide proper policies, procedures, and training to its staff. The proposed amended complaint also identifies Jamar Freeze as Tressa Michael's current plenary guardian.

Defendant objects to Plaintiff's Motion for Leave, contending that Plaintiff failed to establish good cause exists to grant Plaintiff leave to file the amended complaint. The Court disagrees. Over the course of six months, the parties exchanged and answered written discovery and conducted eight depositions. Six of the eight deponents were Defendant's current or former employees. Plaintiff explains in her Motion for Leave that through written discovery and depositions, Plaintiff's counsel learned information that forms the basis of the new allegations in the amended complaint. The Federal Rules of Civil Procedure "are drafted flexibly so parties may tailor their theories as they conduct discovery." *Indianapolis Airport Auth. v. Travelers Property Casualty Co. of America*, 849 F.3d 355, 366 (7th Cir. 2017). Good cause therefore exists to allow Plaintiff to amend her Complaint.

Leave may still be denied if Plaintiff unduly delayed filing the motion, if Defendant would suffer undue prejudice, or if the proposed amended complaint is futile. *Soltys v. Costello*, 520 F.3d 737, 743 (7th Cir. 2008) (quoting *Campania Mgmt. Co. v. Rooks, Pitts & Poust*, 290 F.3d 843, 848-49 (7th Cir. 2002)). The record reflects no undue delay on Plaintiff's part. The Court notes that Plaintiff sought and received an extension of the discovery deadline (from 6/8/2021 to 2/7/2022), to which Defendant did not object. From the date of this Order, the parties have eight more months to conduct discovery and nearly nine months to file dispositive motions. Allowing Plaintiff to amend her Complaint at this time will therefore not unfairly prejudice Defendant.

Defendant argues that Plaintiff failed to allege sufficient facts to establish that Defendant's

policies, procedure, and training were inadequate and therefore Plaintiff's amended complaint is futile. Plaintiff alleges that Defendant's lack of training, policies, and procedures caused Tressa Michael to be dropped five feet by Defendant's employees and sustain a broken leg. In light of Plaintiff's factual allegations, the proposed direct negligence claim against Defendant is not futile. *See Groeller v. Evergreen Healthcare Center LLC*, 2015 IL App (1st) 140932, *21.

Accordingly, Plaintiff's Motion for Leave to File Amended Complaint (Doc. 53) is GRANTED. Plaintiff shall file the amended complaint on or before June 7, 2021. The Clerk of Court is directed to substitute Jamar Freeze as the plenary guardian of Tressa Michaels for Michelle Y. Hardy as the plaintiff in this matter.

IT IS SO ORDERED.

DATED: June 3, 2021

s/ *Reona J. Daly*
Hon. Reona J. Daly
United States Magistrate Judge